

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number: 13906-126001
I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450.  _____ Date of Deposit  _____ Signature  _____ Typed or Printed Name of Person Signing Certificate	Application Number 10/816,910	Filed April 5, 2004
	First Named Inventor Marcus Dill	
	Art Unit 2166	Examiner Leon J. Harper
	Confirmation No. 2649	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).          Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest.          See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record 58,680          (Reg. No.)</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.          Registration number if acting under 37 CFR 1.34          _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p>		
<p><input checked="" type="checkbox"/> Total of 5 pages are submitted in addition to this Form and the Notice of Appeal.</p>		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Marcus Dill	Art Unit :	2166
Serial No. :	10/816,910	Examiner :	Leon J. Harper
Filed :	April 5, 2004	Conf. No. :	2649
Title :	PERFORMING A DATA ANALYSIS PROCESS		

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Pursuant to United States Patent and Trademark Office OG Notices: 12 July 2005 - New Pre-Appeal Brief Conference Pilot Program, a request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. Review of these identified matters by a panel of examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

Claims 1, 3-12, and 14-26 are pending, of which claims 1, 12, and 21 are independent. Claims 1, 3-12, and 14-26 have been rejected as being anticipated by Bal (U.S. Patent Application Publication No. 2004/0164961). Applicants submit that the rejections are clearly erroneous and should be withdrawn because Bal fails to describe or suggest at least one feature recited in each of the claims.

***1. Bal does not describe or suggest every feature of claims 1, 12, and 21.***

Independent claim 1 recites, *inter alia*, accessing user-defined data associated with a data analysis process, the user-defined data including sub-process indicators defining the data analysis process, and performing the sub-processes identified by the sub-process indicators included in the user-defined data. The pending rejection of independent claim 1, over Bal, is not proper because Bal fails to describe or suggest these features.

In particular, Bal is directed to a system for continuously monitoring a plurality of data sources for an event of interest. See Bal at paragraph [0005]. The system includes a data download and analytics engine subsystem that includes a processing unit. See Bal at paragraph [0028]. The processing unit includes a data fetch entity, a data extraction, transformation, and

loading entity, and an analytics engine. See Bal at paragraph [0029]. In determining an event of interest, the data download and analytics engine subsystem, using a web browser, downloads data from the Internet at predefined intervals of time. See Bal at paragraphs [0028] and [0029]. After downloading the data, the data fetch entity, the data extraction, transformation, and loading entity, and the analytics engine perform operations on the downloaded data sequentially to determine a parameter related to the event of interest. See Bal at paragraph [0029] and [0030]; see also Fig. 6. In performing the operations on the downloaded data, however, the system of Bal does not perform a data analysis process by accessing user-defined data including sub-process indicators that define the data analysis process and performing the sub-processes identified by the sub-process indicators. Rather, the system of Bal performs a predetermined data analysis process on the downloaded data each time the data is downloaded and the downloaded data does not include sub-process indicators that define the data analysis process. Therefore, Bal fails to describe or suggest accessing user-defined data associated with a data analysis process, the user-defined data including sub-process indicators defining the data analysis process, and performing the sub-processes identified by the sub-process indicators included in the user-defined data, as recited in independent claim 1.

In the Response to Arguments section of the final Office action, the Examiner argues that Bal implicitly discloses user-defined data. See final Office action of May 31, 2007 at pages 9 and 10. Specifically, the Examiner cites paragraph [0028] of Bal and states:

**Bal discloses that data can be downloaded from data sources like Cnn, money and Yahoo Finance. . . . Such sites as Yahoo Finance have personal pages where [a] user can input their finances in relation to work, student loans, retirement, taxes etc. Thus, an artisan of ordinary skill in the pertinent art would realize that even though the information is downloaded from a financial data source the information can nonetheless be user defined data. Id.**

Even assuming, *arguendo*, that Bal implicitly discloses downloading user-defined financial data from a website such as Yahoo Finance, downloading user-defined financial data from a website does not describe or suggest accessing user-defined data that includes sub-process indicators that define a data analysis process and performing the sub-processes identified by the sub-process indicators included in the user-defined data, as recited in independent claim 1.

Specifically, user-defined financial data downloaded from a website does not include sub-process indicators that define a data analysis process. Instead, the user-defined financial data downloaded from the website identified in the final Office action is provided as input data to a data analysis process and includes no information that defines the data analysis process. Applicant respectfully submits that information related to a user's "finances in relation to work, student loans, retirement, taxes etc." does not include sub-process indicators that define a data analysis process. See final Office action of May 31, 2007 at page 10. Instead, information related to a user's "finances in relation to work, student loans, retirement, taxes etc." is data input to a data analysis process and does not define the data analysis process.

Moreover, claim 1 recites performing the sub-processes identified by the sub-process indicators included in the user-defined data. As interpreted by the Examiner, the user-defined data is the financial data downloaded from a website such as Yahoo Finance. Financial data downloaded from a website such as Yahoo Finance, however, does not identify any sub-processes that are performed by the system of Bal. Rather, the system of Bal performs a predetermined data analysis process on the downloaded data each time the financial data is downloaded and does not perform any process that is defined by the downloaded financial data. In other words, the system of Bal performs the same processing operations regardless of the data being downloaded and input to the data analysis process. Applicant submits that the Examiner is improperly referring to financial data that is used as input to a data analysis process to reject features that recite data including sub-process indicators that define the data analysis process. Applicant submits that this is clearly erroneous.

For at least the reasons discussed above, the Examiner has failed to make a proper anticipation rejection because Bal fails to describe or suggest accessing user-defined data associated with a data analysis process, the user-defined data including sub-process indicators defining the data analysis process, and performing the sub-processes identified by the sub-process indicators included in the user-defined data, as recited in claim 1.

Accordingly, Applicant requests reconsideration and withdrawal of the rejection of independent claim 1 and its dependent claims 3-11 and 22-26.

Independent claims 12 and 21, although different in scope from independent claim 1 and each other, recite features similar to those discussed above with respect to claim 1, and do so in the context of a computer-readable medium and a system. Accordingly, for at least the reasons discussed above with respect to claim 1, Applicant requests reconsideration and withdrawal of the rejection of independent claims 12 and 21 and claims 14-20 depending from claim 12.

***2. Bal does not describe or suggest the additional features of dependent claim 10.***

Bal fails to describe or suggest the additional subject matter recited in many of the dependent claims. For example, dependent claim 10 recites that the user-defined data provides an indication identifying an order for performing the identified sub-processes, and performing the sub-processes comprises performing the sub-processes in the order identified by the user-defined data. Applicant submits that the financial data downloaded from a website such as Yahoo Finance does not provide an indication identifying an order for performing sub-processes and the system of Bal does not perform sub-processes in the order identified by the downloaded data. Rather, the system of Bal performs the operations in the data analysis process in the same, predetermined order each time data is downloaded. Bal does not describe or suggest that an order of the operations in the data analysis process changes based on the data downloaded and input to the data analysis process. Thus, Bal fails to describe or suggest that the user-defined data provides an indication identifying an order for performing the identified sub-processes, and performing the sub-processes comprises performing the sub-processes in the order identified by the user-defined data, as recited in dependent claim 10.

Accordingly, for at least this additional reason, Applicant respectfully requests reconsideration and withdrawal of the rejection of dependent claim 10.

Applicant : Marcus Dill  
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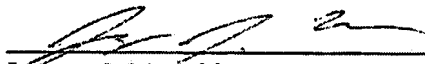
**3. Conclusion and Relief.**

For at least the reasons noted above, the rejections of record are clearly improper and without basis. Applicant submits that all of the claims are in condition for allowance.

This request is filed with a Notice of Appeal. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 9/10/2007

  
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